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Paper 66

10
11 UNITED STATES PATENT AND TRADEMARK OFFICE
12

13
14 BEFORE THE BOARD OF PATENT APPEALS
15 AND INTERFERENCES
16

17
18 STEPHEN ROBERT BYRN, DAVID ANDREW COATES,
19 KAREN SUE GUSHURST, JOSEPH FRANCIS KRZYZANIAK,
20 ZHENG JANE LI, HENRY GRANT MORRISON II,
21 AERI PARK and PETRINKA IVANOVA VLAHOVA,
22

23 Junior Party
24 Patent 6,605,729 B1,
25

26 v.
27

28 JUDITH ARONHIME, RAMY LIDOR-HADA, VALERIE NIDDAM,
29 RETITAL LIFSHIRTZ and GUY SHAMBURSKY,
30

31 Senior Party
32 Application 09/997,126.
33

34
35 Patent Interference 105,384 McK
36 Technology Center 1600
37

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39 Entered: 20 September 2006
40

41
42 **ORDER REDECLARING INTERFERENCE**
43

44 Pursuant to the MEMORANDUM OPINION and ORDER (Paper 64)
45 of the merits panel granting Byrn Motion 2 and the MEMORANDUM
46 OPINION and ORDER (Paper 65) granting Aronhime Motion 1, it is

ORDERED that the interference is redeclared by substituting Count 2 for Count 1, with the matter in **bold** in Count 2 as set out below being added to Count 1; matter in [brackets] added for clarification.

Count 2

A crystalline [Aronhime] Form VIII atorvastatin hemicalcium and solvates thereof characterized by a powder X-ray diffraction pattern generated using CuK α radiation with peaks at:

4.8
5.2
8.0
9.2
9.6
19.0
20.0
24.0 and
29.0

± 0.2 degrees two-theta

or

a crystalline [Byrn] Form X atorvastatin or a hydrate thereof having an X-ray power diffraction containing the following 2 Θ values measured using CuK α radiation:

4.7
5.2
5.8
6.9
7.9
9.2
9.5
10.3 (broad)
11.8

1	16.1
2	16.9
3	19.1
4	19.8
5	21.4
6	22.3 (broad)
7	23.7 (broad)
8	24.4 and
9	28.7

10 **± 0.2 degrees two-theta.**

11 FURTHER ORDERED that claims designated as corresponding to
12 Count 1 as set out in the DECLARATION (Paper, 1) are designated as
13 corresponding to Count 2.

14 FURTHER ORDERED that benefit accorded in the DECLARATION
15 (Paper 1) is accorded as to Count 2.

16 FURTHER ORDERED that Aronhime is accorded benefit for
17 the purpose of priority of Provisional Application 60/250,072, filed
18 30 November 2000.

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_____)
FRED E. McKELVEY)
Senior Administrative Patent Judge)

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Attachments: 105384_063.pdf; 105384_064.pdf; 105384_065.pdf; 105384_066.pdf

Memorandum Opinion and Order - Paper 63

Memorandum Opinion and Order - Paper 64
(Granting Byrn Motion 2 and Dismissing
Aronhime Motion 6)

Memorandum Opinion and Order - Paper 65
(Granting Aronhime Motion 1 in part)

Order Redeclearing Interference - Paper 66

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